

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

CRP.No. 1909 of 2000(G)

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CC.1662/1973 of TALUK LAND BOARD, CHITTUR
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REVN. PETITIONER/TENANT:

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MAYAN, S/O CHELLAN,
KIZHAKKETHARA, NENMENI POST,
KOLLENGODE, CHITTUR TALUK,
PALAKKAD DISTRICT.**

ADDL.P2:

- 2. MEENAKSHI, W/O LATE MAYAN,
VEETILAPOTTA, NENMENI POST,
KOLLENGODE, CHITTUR TALUK,
PALAKKAD DISTRICT.**
- 3. CHELLAN, S/O LATE MAYAN,
VEETILAPOTTA, NENMENI POST,
KOLLENGODE, CHITTUR TALUK,
PALAKKAD DISTRICT.**
- 4. PONNUKUTTY, D/O LATE MAYAN,
DO. DO.**
- 5. CHANDRAN, S/O LATE MAYAN,
DO. DO.**
- 6. VISWANATHAN, S/O LATE MAYAN,
DO. DO.**
- 7. SUNITHA, D/O LATE MAYAN,
DO. DO.**
- 8. SIVADASAN, S/O LATE MAYAN,
DO. DO.**

**ADDL. REVISION PETITIONERS 2 TO 8 ARE IMPLEADED AS THE
LRS. OF THE DECEASED SOLE PETITIONER AS PER ORDER DATED
3.8.07 IN I.A.2367/04 IN CRP.1909/00.**

BY ADV. SRI.SAJAN VARGHEESE K.

RESPONDENTS/RESPONDENTS/DECLARANT:

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1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.
 2. THE TALUK LAND BOARD CHITTUR,
PALAKKAD DISTRICT.
 3. SMT. MAYILAMMA,
W/O LATE KANTHASWAMY GOUNDER,
UPPILIPALAYAM, BHADRAKALI
AMMAN STREET, COIMBATORE.
 4. SRI. ARULMOZHIVARNAN,
S/O LATE KANTHASWAMY GOUNDER,
DO. DO.

ADDL.R5: THE TAHSILDAR,
CHITTUR TALUK, PALAKKAD DISTRICT.

ADDL. RESPONDENT NO.5 IS IMPEADED IN THE CRP
VIDE ORDER DTD. 12.6.02 ON CMP 2472/02.

BY GOVERNMENT PLEADER SRI. M.R. SABU.
BY R3 AND R4 SRI.D.KRISHNA PRASAD

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 19/03/2007, ALONG WITH CRP NO. 1910 OF 2000 CRP NO.
1911 OF 2000 CRP NO. 1936 OF 2000 CRP NO. 1964 OF 2000 CRP
NO. 1965 OF 2000 THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON CMP NOS.3908 OF 2000 & CMP 2473/02 IN

C.R.P. NO.1909 OF 2000

DISMISSED

19/3//07

SD/- M.N. KRISHNAN, JUDGE.

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.
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C.R.P. NOs. 1909, 1910, 1911,
1936, 1964 and 1965 OF 2000
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Dated this the 19th day of March, 2007.

ORDER

C.R.P. No.1909 of 2000

This is a revision preferred against the order of the Taluk Land Board, Chittur in C.C.1662/73. The revision petitioner is one Mayan. He claims property under one Thirumalaswamy Gounder on the basis of an oral lease of the year 1960 which relates to an extent of 15 acres un-surveyed land. It is contended that the property belongs to Vengandu Kovilakam and a certificate of purchase had been issued in favour of this Mayan. Strangely, though the name of Mayan is shown as No.8 in the list to whom copies are issued, the case of Mayan is not seen considered by the Taluk Land Board. The learned counsel for the Kanthaswamy Gounder also submits that in the light of the Board proceedings this Kanthaswamy Gounder has opted to treat his second wife and children as members of the family for the purpose of the K.L.R. Act. The learned counsel also submits that if it is so, the property held by the first wife could not be included for fixing the ceiling limit of

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Kanthaswamy Gounder as it separately belongs to her. This matter has also not been considered by the Taluk Land Board. The learned counsel submits that the property exclusively belong to the first wife and so that has to be taken note of and considered in the light of the above submissions. Mainly, the Taluk Land Board has not considered any of these aspects. The learned counsel for the revision petitioner also submits before me that his client is entitled to the protection under Section 7E of the amended K.L.R. Act. It is also a matter that has to be considered by the Taluk Land Board. For the above said purpose the matter is remanded back to the Taluk Land Board and the order of the Taluk Land Board is set aside.

C.R.P. No.1910 of 2000

This revision is preferred by one Chellan who claims tenancy right on 8.15 acres of unsurveyed land under Thirumalaswamy Gounder and he had obtained a certificate of purchase. The Taluk Land Board has not considered the matter and therefore prays for an opportunity. The learned counsel for respondents 3 and 4 reiterates the contention that impleadment of second wife and

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children of Kanthaswamy Gounder is necessary for an appropriate disposal of the case. Further, the learned counsel for the revision petitioner submits that he is entitled to protection under Section 7E of the amended Act 21 of 2006. Therefore, the order of the Taluk Land Board is set aside to consider all these things after impleading the necessary parties.

C.R.P. No.1911 of 2000

The revision petitioner, namely, Velayudhan submits that 3.8 acres of land which is unsurveyed was taken on lease from Thirumalaswamy Gounder prior to 1960. It is submitted that he had applied for certificate of purchase. He has not been given any opportunity to establish his case. The learned counsel appearing for respondents 3 and 4 submits that since Kanthaswamy Gounder has opted his second wife and children to constitute the family, they must also be made parties before the matter is finally disposed of. A perusal of the Taluk Land Board would reveal that the claim of these revision petitioners has also not been considered by the Taluk Land Board. The learned counsel also submits that the revision petitioner is entitled to the protection

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under Section 7E of the amended Act 21 of 2006. Since the Land Board has not considered any of these matters, the order of the Taluk Land Board is set aside to consider the above points after affording an opportunity to the revision petitioner to be heard after impleading necessary parties as mentioned above.

C.R.P. No.1936 of 2000

This revision is filed by the legal representatives of deceased Kasu. Kasu claims right over 2.5 acres of land under Thirumalaswamy Gounder on the basis of a lease and a certificate of purchase had been issued in his favour. No opportunity had been given to him to prove his case and further that they are also entitled to protection under Section 7E of Act 21 of 2006. It is also pointed out that the second wife and children of Kanthaswamy Gounder are also necessary parties for a proper adjudication of the matter. Since the Taluk Land Board has not considered any of these matters, the order with respect to the same is set aside and the Taluk Land Board is directed to dispose of the matter after affording an opportunity to the revision petitioner to be heard and after impleadment of second wife and children.

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C.R.P. No.1964 of 2000

This revision is preferred by one Karuppan who is not shown as a party in the order of the Taluk Lan Board. It is submitted that he had participated in the proceedings before the Taluk Land Board and the Board has not considered his case at all. He claims tenancy right of 4 acres of land under Thirumalaswamy Gounder on the basis of an oral lease of the year 1960 and that an application for a suo motu proceedings for issuance of certificate of purchase is pending before the Land Tribunal. It is also contended that he is entitled to protection under 7E of Act 21 of 2006. The learned counsel for respondents 3 and 4 would submit that without impleading the second wife and children of Kanthaswamy Gounder the proceedings are defective and therefore prays for impleading them. It is seen that the Taluk Land Board has not considered any of these aspects. Therefore, the order of the Land Board is set aside and the Land Board is directed to give an opportunity to the revision petitioner to substantiate his case and allow to raise other contentions after impleading second wife and children of deceased Kanthaswamy Gounder.

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C.R.P. No.1965 of 2000

This revision is preferred by Chami claiming tenancy right of 4.5 acres under Thirumalaswamy Gounder by virtue of an oral lease of the year 1960. It is submitted that no opportunity had been given to him for submitting his evidence before the Taluk Land Board. The learned counsel for respondents 3 and 4 contended that impleadment of second wife and children of deceased Kanthaswamy Gounder is necessary for proper determination of the case. The learned counsel for the revision petitioner seeks an opportunity to adduce evidence in support of his contentions. He also claimed protection under Section 7E of Act 21 of 2006. The Land Board has not considered any of these aspects. Therefore, the Land Board's order is set aside and the case is remanded back to the Taluk Land Board to consider the case of the revision petitioner after impleading the second wife and children of Kanthaswamy Gounder.

Accordingly, all these cases are disposed of by way of remand to the Taluk Land Board and in all these cases respondents 3 and 4 also should be heard and their contentions

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should be considered by the Board before final disposal of the matter. They should also be permitted to produce necessary documents, oral as well as documentary, in support of their contentions. Parties are directed to appear before the Taluk Land Board, Chittur on 30.4.2007.

M.N. KRISHNAN, JUDGE.

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M.N. KRISHNAN, J.

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J U D G M E N T

19th March, 2007.